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Testimony
U.S. House of Representatives
Committee on Resources
Subcommittee on Energy and Mineral Resources
Field Oversight Hearing
“ Coal’s Contribution to the United States Economy and the Intermountain West”
“ Reclamation Bonding and the Surety Bond “Crisis”
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I am Wanda Burget, Manager – Environmental Engineering for Powder River Coal Company, the largest coal company in Wyoming. We operate three large surface operations in the Powder River Basin in Northeastern Wyoming. In 2002 our operations produced in excess of 100 million tons of coal.

I appreciate the opportunity to represent the Wyoming Mining Association at the Subcommittee on Energy and Mineral Resources Field Oversight Hearing on “Coal’s Contribution to the United States Economy and the Intermountain West”. My remarks today will focus on the surety bond “crisis” as it affects reclamation bonding for the coal industry in Wyoming. Coal companies are required to provide performance guarantees to ensure that land disturbed in the mining process will be reclaimed in accordance with Federal and state regulations. Surety bonds are the most widely used form of performance guarantees for coalmine reclamation. However, letters of credit, provided by banks are also used.

The “crisis” today is the lack of adequate amounts of surety bonds to enable Wyoming coal operators to meet their current and future obligations under Federal and Wyoming regulations. I plan to focus my remarks on reasons for the capacity crunch, the financial impact on the coal companies and conclude with suggestions on how our Federal and state authorities can assist in managing the crisis.

Surety companies traditionally spread the risk of the performance guarantee by reinsuring a portion of the risk with large reinsurance companies. Reinsurance companies have experienced substantial losses in recent years. While these losses have not been related to coal reclamation surety bonds, reinsurance companies have never the less reduced their capacity and appetite for coal reclamation bonds because of the long-term exposure and lack of a cancellation provision. This has forced the surety companies to assume additional risk or reduce their surety bond exposure. Many traditional surety companies have elected to withdraw from writing coal reclamation bonds thereby creating a serious capacity “crunch” or crisis.

The impact has been substantial on Wyoming coal operators. First, coal operators must look to other, more costly forms of performance guarantees such as letters of credit. In addition to cost, letters of credit reduce the borrowing capacity and impact the amount of capital coal operators have to invest in their operations. Second, surety companies are seeking ways to reduce or eliminate their reclamation bonds in place. Since the Wyoming reclamation bond program does not permit cancellation, surety companies are turning to other tactics to reduce their exposure including the cancellation of other surety bonds unrelated to reclamation. Third, surety companies are seeking substantial increases in premium and requiring letters of credit as collateral when coal operators will not or cannot meet their demands for a reduction of the reclamation bonds in place. For example, in the past two years we have experienced bond rate increases from \$2.00 and \$3.00 per thousand to \$10.00 and \$12.50 per thousand. In 2003, one surety company increased their rate in Wyoming to \$50.00 per thousand. Further, another surety company has announced a rate of \$20.00 per thousand effective in 2004 unless they receive substantial letters of credit as collateral for the reclamation bonds in place. The rate increases have and will continue to result in increased cost to the coal operators and the demand for letters of credit will affect the cost and availability of capital.

Our association continues to explore solutions to this crisis. While each of us individually may have a preference, I want to share with you several suggestions that appear to represent a consensus. First, the calculation of the actual reclamation liability and contingencies should be reviewed to ensure they are not excessive and thereby resulting in unnecessary additional performance guarantees. Second, release of surety bonds and other performance guarantees must occur on a timely basis. Third, we urge a review of the self-bond provision of the regulations. These options will reduce the demand for performance guarantees and may induce other surety companies to commit additional surety bond capacity.

I appreciate the opportunity to share the reality of the reclamation surety bond "crisis" with you. Our association and its members are available to answer your questions. Coal mining is vital to Wyoming and the US economy. We must ensure the availability of reclamation performance guarantees to enable us to meet the expanding energy requirements of our economy.

Thank you for allowing me to share our concerns and suggestions with you.